



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

MITT ROMNEY
Governor

KERRY HEALEY
Lieutenant Governor

ELLEN ROY HERZFELDER
Secretary

ROBERT W. GOLLEDGE, Jr.
Commissioner

TOXICS USE REDUCTION ACT (TURA) PROGRAM

BACKGROUND DOCUMENT

AND

PROPOSED AMENDMENTS TO 310 CMR 50.00

STATUTORY AUTHORITY
M.G.L. chapter 21I, sections 2 and 3(F)

MAY 2004

I. SUMMARY

The Commonwealth of Massachusetts is committed to reducing pollution before it is produced, as evidenced by the passage of the Toxics Use Reduction Act (TURA), M.G.L. Chapter 21I, in 1989. TURA is primarily a reporting and planning law, which requires regulated facilities to examine their use of toxic chemicals and explore ways to decrease toxic chemical use and waste.

These proposed regulations contain provisions to streamline certain aspects of chemical reporting and toxics use reduction planning, as well as to adjust continuing education requirements for Toxics Use Reduction Planners.

These proposed regulations also make TURA rules consistent with the federal Emergency Planning and Community Right-to-Know Act rules governing reporting of persistent, bioaccumulative, and toxic (PBT) chemicals, and make other miscellaneous changes.

II. DESCRIPTION OF PROPOSED REGULATIONS

A. Streamlining Amendments

The proposed amendments to 310 CMR 50.00 make the following changes designed to improve the TURA Program:

- Plan Summary Form: Elimination of the requirement that firms report in their toxics use reduction (TUR) plan summaries the 2- and 5-year projected change in chemical use and byproduct generation stated as a percentage (firms continue to report those projected increases and decreases in total pounds).
- Cost of Toxics: Elimination of the requirement that a TUR Plan contain a separate and distinct section where the cost of using a toxic chemical is calculated. Instead, firms will be required to quantify the direct and indirect costs as they are relevant to the economic evaluation of TUR options. Where there are no technically feasible options to evaluate, firms are required to identify -- but need not quantify --- the relevant costs associated with using the toxic chemical.
- TUR Planner Re-certification Requirements: In 1994, DEP established the requirement that in order to be re-certified, a TUR Planner had to obtain 30 continuing education credits within a two-year period. At that time the profession was a new one. Since then, the expertise and experience of TUR Planners has grown so that fewer credits are necessary to maintain TUR planner expertise. The amendments adjust the re-certification requirements as follows:
 1. General Practice TUR Planners seeking to re-certify for the first time must *still* have 30 continuing education credits. For all subsequent re-certifications, they must have 24 credits.

2. Limited Practice TUR Planners seeking to re-certify for the first time must have 24 credits. For all subsequent re-certifications, they must have 20 credits.

B. PBT Amendments

The proposed amendments also adopt the following EPCRA provision regarding PBTs:

- De Minimis Exemption: The de minimis exemption does not apply to PBTs (i.e., de minimis concentrations of PBTs in a mixture are reportable).

C. Miscellaneous Amendments

The proposed amendments also contain several housekeeping provisions. These include:

- Insert a definition for “Form A” stating that a Form A may be submitted in lieu of a Form R when the federal criteria for using a Form A are met. However, for the purposes of TURA, the Form A must include a production or activity index.
- Insert definitions for General and Limited Practice Toxics Use Reduction Planners.
- Insert language in the definition of “manufacture” to make it clear that the term also covers incidental manufacturing.
- Delete the Form S and Cover Sheet from the regulations to facilitate minor changes to the forms without a regulation change. The contents of those forms remain spelled out in 310 CMR 50.33.
- Insert a requirement that toxics users shall file certain billing documents as prescribed by DEP.

III. POTENTIAL IMPACTS OF PROPOSED AMENDMENTS

The scope of these amendments is fairly modest, as are the potential impacts. The streamlining amendments will further reduce paperwork requirements, although the cost-savings will vary from company to company. They will not diminish the quality of information available to the public. The amendments adjusting the continuing education requirements for TUR planners ensure that those requirements reflect the recognition that this profession has grown in experience and expertise. The number of credits for re-certification need not be as much as in the early years when the profession was new.

The lowered PBT thresholds are the result of statutory requirements as codified in existing regulations. The amendment regarding PBTs ensures consistency in how the information is reported for state and federal purposes.

Cities and towns in the Commonwealth are statutorily exempt from TURA. The proposed amendments will have no adverse effect on municipalities.

REDLINE / STRIKEOUT VERSION OF PROPOSED TURA REGULATIONS

The text below is a redline/strikeout version of the proposed revisions to 310 CMR 50.00. It includes those sections or parts of sections where changes have been proposed.

Changes to 50.00: TOXICS USE REDUCTION

Note to reviewers: The changes below amend the table of contents by re-naming certain sections and adding a new section (50.46A).

50.34: ~~Reporting Forms~~ Billing Forms

50.45: ~~Cost of Toxics~~ Procedures for Identifying Potential Toxics Use Reduction Techniques

50.46: Technical ~~and Economic~~ Evaluation of Toxics Use Reduction Techniques

50.46A: Economic Evaluation of Toxics Use Reduction Techniques

Changes to 50.10: Definitions

Note to reviewers: The changes below:

1. Add a definition for “Form A” so that the Form A can be referenced in the regulations to state that DEP does accept the Form A when the applicable requirements are met.
2. Add definitions for “General Practice Toxics Use Reduction Planner” and “Limited Practice Toxics Use Reduction Planner.”
3. Amend the definition of “manufacture” to make it clear that manufacture applies to the coincidental manufacture of toxic substances.

Form A means the report authorized by 40 CFR part 372.27 and containing the data elements specified in 40 CFR part 372.95.

General Practice Toxics Use Reduction Planner means an individual who has been certified by the Department pursuant to 310 CMR 50.54 and has paid the fee specified in 310 CMR 50.53(3)(a).

Limited Practice Toxics Use Reduction Planner means an individual who has been certified by the Department pursuant to 310 CMR 50.54 or 50.55 and has paid the fee specified in 310 CMR 50.53(3)(c).

Manufacture means to produce, prepare, import or compound a toxic or hazardous substance. Manufacture also means to produce a toxic or hazardous substance coincidentally during the manufacture,

processing, use, or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct, and a toxic chemical that remains in that other chemical or mixture of chemicals as an impurity.

Changes to 50.20: Rules for Determining Amount of Toxic Substance Manufactured, Processed or Otherwise Used

Note to reviewers: 310 CMR 50.20 contains the rules for calculating toxic chemical quantities for reporting purposes. To be consistent with federal reporting under the Emergency Planning and Community Right To Know Act (EPCRA), the change below makes it clear that the de minimis exemption does not apply to persistent bioaccumulative toxics (PBTs).

(7) With respect to toxic substances present as a component of a mixture or trade name product, toxics users shall consider the quantity of the toxic substance if the toxics user knows that the toxic substance is present as a component of the mixture or a trade name product. In determining the amount or quantity of a toxic substance manufactured, processed, or otherwise used at a facility, the toxics user shall not consider the amount of the toxic substance if it is present in a mixture in concentrations equal to or below the de minimis concentration for that toxic substance set forth in 40 CFR Part 372.38(a), provided, however, that this de minimis exemption shall not apply to any toxic or hazardous substance specified as a chemical of special concern in 40 CFR Part 372.28.

Changes to 50.32: Reporting Requirements

Note to reviewers: 310 CMR 50.32 contains provisions governing toxics use reporting. The changes below delete the reference to 310 CMR 50.34, the section that contains the TURA Forms. These changes also make clear that a Form A may be submitted in lieu of a Form R when federal requirements are met and that a production ratio or activity index must be included in the Form A.

(10) Each toxics use report shall contain the information set forth in 310 CMR 50.33 and shall be submitted on forms prescribed by the Department ~~set forth in 310 CMR 50.34. In completing the reporting forms, the toxics user shall comply with the Department's "Instructions for Toxics Use Reports".~~

(11) Each toxics use report shall consist of ~~the following~~
~~—completed forms:~~
~~—(a) 1 Form R; and~~
~~—(b) 1 Form S.~~ one completed Form R and one completed Form S, provided, however, that a Form A may be submitted in lieu of a Form R if the requirements of 40 CFR Part 372.27 are met and the Form A includes a production ratio or activity index.

Changes to 50.34: Reporting Forms

Note to reviewers: 310 CMR 50.34 contain the Form S Cover Sheet and Form S reporting forms. The changes delete those forms from the regulations, although the required elements of the forms remain in the regulations at 310 CMR 50.33. They then add language concerning billing forms.

310 CMR 50.34 — Reporting Forms

[delete section in its entirety]

310 CMR 50.34: Billing Forms

With each report or reports submitted pursuant to 310 CMR 50.32(11)(a) or (b), the toxics user shall also submit to the Department a Toxics Use Fee Worksheet and a TURA Billing Information Form, on forms prescribed by the Department.

Changes to 310 CMR 50.42: General Plan Requirements

Note to reviewers: 310 CMR 50.42(9) and (10) require that toxics use reduction plans be developed in accordance with standard accounting and engineering practices. Those are requirements for the information in the plan and should not be construed to imply that by certifying a plan a TUR planner is acting as an accountant or professional engineer. The changes below clarify that point.

310 CMR 50.42: General Plan Requirements

- (3) Each plan and each plan update shall include the following written statement signed by a certified toxics use reduction planner: "Based on my independent professional judgment as a toxics use reduction planner, I certify under penalty of law that the following is true:
- (a) I have examined and am familiar with this toxics use reduction plan;
 - (b) the plan satisfies the requirements of 310 CMR 50.40; and
 - (c) the plan demonstrates a good faith and reasonable effort to identify and evaluate toxics use reduction options."

Notwithstanding any professional designation held by a certified toxics use reduction planner or trade organization of which that individual is a member by way of license,

registration, certification, or similar qualification, the signed certification statement of a toxics use reduction planner shall not mean that such individual signs in his or her capacity as anything other than a toxics use reduction planner.

Changes to 50.43: Facility-Wide Information Required in Each Plan

Note to reviewers: 310 CMR 50.43 describes the information that must be included in a plan. It directs that the plan must include the projected change in chemical use and byproduct calculated as a percentage and a total amount. The changes below remove the requirement that a percentage be calculated.

- (3) the expected change in the use of each covered toxic and in the amount of each covered toxic generated as byproduct. The expected change shall be determined in accordance with 310 CMR 50.43(4), shall be based on the toxics use reduction techniques chosen to be implemented as identified in the plan or plan update, and shall be stated as:
 - (a) the amount in pounds by which the toxics user plans to increase or decrease the use of the toxic;
 - ~~(b) the percent by which the toxics user plans to increase or decrease the use of the toxic;~~
 - (e b) the amount in pounds by which the toxics user plans to increase or decrease the amount of the toxic generated as byproduct; and,
 - ~~(d) the percent by which the toxics user plans to increase or decrease the amount of the toxic generated as byproduct.~~

Changes to 50.45: Cost of Toxics

Note to reviewers: 310 CMR 50.45 states the requirements for calculating the cost of toxics. The changes below delete that section. Pertinant subsections of 310 CMR 50.45 are placed in the proposed 310 CMR 50.46A.

- ~~(1) For each production unit, toxics users shall determine the total cost per year of the covered toxic and the cost of the covered toxic per unit of product. Toxics users shall determine such costs for the calendar year preceding the date on which the plan is due. Toxics users shall include the cost of each covered toxic and the calculations in the plan.~~
- ~~(2) In determining the cost of the covered toxic, toxics users shall consider indirect and direct labor and material costs, and shall specify in the plan the amount of such costs.~~
- ~~(3) In determining the cost of the covered toxic, toxics users shall consider all costs associated with the use of the toxic, including, but not limited to, the following costs:~~

- ~~— (a) purchase or manufacturing cost of the toxic;~~
- ~~— (b) storage, accumulation, treatment, disposal, and~~
- ~~— handling costs associated with toxics and byproducts;~~
- ~~— (c) costs associated with activities requires to comply~~
- ~~— with local, state, or federal laws or regulations,~~
- ~~— including but not limited to, fees, taxes, treatment,~~
- ~~— disposal, reporting, and labelling costs;~~
- ~~— (d) worker health or safety costs associated with the~~
- ~~— toxic, including but not limited to, protective equipment,~~
- ~~— and lost employee time due to accidents or routine exposure~~
- ~~— to the toxic;~~
- ~~— (e) insurance;~~
- ~~— (f) potential liability costs that may arise from~~
- ~~— intentional, unintentional, or accidental activities or~~
- ~~— occurrences;~~
- ~~— (g) loss of community goodwill and product sales lost to~~
- ~~— competing non-toxic products.~~

~~— (4) In determining the cost of the covered toxic, toxics~~
~~— users need not quantify potential liability costs and loss of~~
~~— community goodwill and product sales lost to competing~~
~~— non-toxic products. Toxics users shall state in the plan the~~
~~— estimated impact on the cost of the covered toxic of these~~
~~— costs.~~

~~— (5) In determining the cost of the covered toxic, toxic~~
~~— users shall consider costs other than those set forth in 310~~
~~— CMR 50.45(3) if others are relevant, and shall describe such~~
~~— costs in the plan.~~

~~— (6) Toxics users shall state in the plan costs set forth in~~
~~— 310 CMR 50.45(3) that are not relevant in determining the cost~~
~~— of the covered toxic. Toxics users shall explain in the plan~~
~~— why such costs are not relevant.~~

~~— (7) Toxics users shall explain in the plan how costs~~
~~— associated with the use of the covered toxic were allocated to~~
~~— the production unit. The allocation of such costs to the~~
~~— production unit shall be accurate to the extent possible.~~

Changes to 310 CMR 50.46: Technical and Economic Evaluation of Toxics Use Reduction Techniques

Note to reviewers: The existing 310 CMR 50.46 establishes the procedures for identifying and evaluating toxics use reduction techniques, including analysis of costs and savings. The amendments split this section into two sections—one containing the first two sections of 310

CMR 50.46, the other many of the remaining sections. The first two sections of 310 CMR 50.46 are renumbered as 310 CMR 50.45 as a result of the deletion of the existing 310 CMR 50.45.

310 CMR 50.46 ~~5: Technical and Economic Evaluation of~~ Procedures for Identifying Potential Toxics Use Reduction Techniques

(1) Toxics users shall describe the procedure used by the toxics user to identify technologies, procedures, and training programs for potentially achieving toxics use reduction in each production unit. This procedure shall include, but not be limited to, a consideration of each type of toxics use reduction technique specified in the definition of “toxics use reduction” set forth in 310 CMR 50.10 and M.G.L. c.21I, a list of personnel involved in the procedure, a description of information sources consulted, and a description of information gathering techniques.

(2) ~~The plan~~ Toxics users shall list technologies, procedures, and training programs identified as potentially achieving toxics use reduction pursuant to ~~310 CMR 50.46(1)~~ 310 CMR 50.45(1).

Additi

onal Changes to 310 CMR 50.46: Technical and Economic Evaluation of Toxics Use Reduction Techniques

Note to reviewers: The changes below represent minor modifications of sections 3 and 4 of the current 310 CMR 50.46. 310 CMR 50.46(3)(c) (dealing with costs) has been placed in modified form in a new 310 CMR 50.46A.

50.46: Technical and Economic Evaluation of Toxics Use Reduction Techniques

(~~3~~ **1**) Toxics users shall evaluate the technical ~~and economic~~ feasibility of each technology, procedure, or training program listed in the plan pursuant to 310 CMR 50.46~~5~~(1) and (2) in accordance with the following requirements:

(a) Toxics users shall evaluate whether the technology, procedure, or training program constitutes toxics use reduction as defined in 310 CMR 50.10 and M.G.L. c. 21I, s. 2.

(b) Toxics users shall calculate the expected reductions resulting from implementation of the technology, procedure, or training program in accordance with 310 CMR 50.46(3)(b) 1. through 4.:

1. toxics users shall calculate expected reductions in the amount of toxics used in each production unit;
2. toxics users shall calculate expected reductions in the amount of toxics used per unit of product for each production unit;

3. toxics users shall calculate expected reductions in the amount of toxics generated by each production unit;
4. toxics users shall calculate expected reductions in the amount of toxics generated as byproduct per unit of product for each production unit.

~~(e) Toxics users shall evaluate the costs and savings associated with the technology, procedure, or training program. Toxics users shall state in the plan the discount rate, cost of capital, depreciation rate, or payback period, if any, used in each analysis. The discount method, depreciation rate, and payback period shall be consistent with the toxics user's current capital budgeting procedures.~~

(4 2) Toxics users need not complete the evaluation of a particular technology, procedure, or training program if, during the evaluation, the toxics user determines that the technology, procedure, or training program being evaluated is not appropriate for any of the following reasons:

- (a) the technique is clearly technically infeasible;
- (b) the technique is clearly economically infeasible, as determined pursuant to 310 CMR 50.46A;
- (c) implementation of the technology, procedure, or training program is not likely to result in a decrease in the amount of toxics used per unit of product or the amount of toxics generated as byproduct per unit of product.

New 50.46A: Economic Evaluation of Potential Toxics Use Reduction Techniques

Note to reviewers: The changes below group together in one new section pertinent sections that appear in the current 310 CMR 50.45 (Cost of Toxics) and 310 CMR 50.46 (Technical and Economic Evaluation of Toxics Use Reduction Techniques).

The table below shows which new sections correspond to the old.

New Section	Existing Section	New Section	Existing Section
50.46(A) (Introductory Paragraph)	50.46(3) (Introductory Paragraph)	50.46(A)(4)	50.45(7)
50.46(A)(1)(a)	50.45(2)	50.46(A)(5)	50.45(6)
50.46(A)(b)-(i)	50.45(3)(a)-(g)	50.46(A)(6)	50.46(3)(c)
50.46(A)(2)	50.45(2)	50.46(A)(7)	None
50.46(A)(3)	50.45(1)		

The redline/strikeout text below highlights only that language which is truly new and language deleted.

The major items in the proposed changes are:

1. Deletion of 310 CMR 50.45(1) (which required that toxics users calculate total costs of covered toxics for each production unit).

(This section is inconsistent with 310 CMR 50.45(7) which only calls for an explanation of how total costs are allocated to the production unit.)

2. Incorporation of certain cost calculations into a procedure that considers the costs and savings of current operations as compared to proposed toxics use reduction options.

(This way of considering costs is more consistent with DEP's Planning Guidance than focussing on costs alone.)

3. Clarification that irrelevant costs or costs that cannot be reliably quantified do not have to be quantified. An explanation is all that is needed.

4. Addition of a standard for determining economic feasibility of a toxics use reduction option.

(The proposed amendments provide that such a determination must be made at least consistent with other business decisions, although a toxics user may modify its decision-making to adopt a toxics use reduction option.)

50.46A: Economic Evaluation of Potential Toxics Use Reduction Techniques

(1) Toxics users shall evaluate the economic feasibility of each technology, procedure, or training program identified as technically feasible pursuant to 310 CMR 50.46 as compared to the current operations involving the toxic. In that analysis, the following items must be considered if they are relevant:

- (a) indirect and direct labor and materials costs (which shall be stated in the plan);
- (b) purchase or manufacturing cost of the toxic and its alternative chemical;
- (c) capital and equipment costs;
- (d) storage, accumulation, treatment, disposal, and handling costs associated with toxics and byproducts;

(e) costs associated with activities required to comply with local, state, or federal laws or regulations, including but not limited to, fees, taxes, and costs associated with treatment, disposal, reporting and labeling;

(f) worker health or safety costs associated with the toxic ~~and its alternative chemical~~, including but not limited to, protective equipment, and lost employee time due to accidents or routine exposure to the toxic;

(g) insurance;

(h) potential liability costs that may arise from intentional, unintentional, or accidental activities or occurrences; and

(i) loss of community goodwill and product sales lost to competing non-toxic products.

(2) In determining the costs and savings, ~~of the covered toxic~~, toxics users shall consider ~~costs~~ ~~items~~ other than those set forth in ~~310 CMR 50.45(3)~~ 310 CMR 46A(1) if others are relevant and shall describe such ~~costs~~ ~~items~~ in the plan.

(3) Toxics users shall determine the total cost per year ~~of the covered toxic~~ and the cost ~~of the covered toxic~~ per unit of product associated with the use of the toxic in the toxics user's current operations. Toxics users shall determine such costs for the calendar year preceding the date on which the plan is due. Toxics users shall include ~~the cost of each covered toxic~~ these total costs and the calculations in the plan.

(4) Toxics users shall explain in the plan how costs associated with the use of the covered toxic were allocated to the production unit. The allocation of such costs to the production unit shall be accurate to the extent possible.

(5) Toxics users shall state in the plan costs set forth in ~~310 CMR 50.45(3)~~ 310 CMR 50.46A(1) that are not relevant in determining the cost of the covered toxic ~~or cannot be reliably quantified~~. The toxics users shall explain in the plan why such costs are not relevant or cannot be quantified and shall state in the plan an estimated impact of the unquantified cost.

(6) In evaluating the costs and savings associated with the technology, procedure, or training program identified as technically feasible pursuant to 310 CMR 50.46, toxics users shall state in the plan the discount rate, cost of capital, depreciation rate, or payback period, if any, used in each analysis. The discount method, depreciation rate, and payback period shall be consistent with the toxics user's current capital budgeting procedures. The decision concerning the economic feasibility of a technology, procedure, or training program shall be made at least consistent with the toxics user's current business decision making practices; provided, however, that a user may modify those practices to adopt a technology, procedure, or training program.

(7) If no technologies, procedures, or training programs are identified pursuant to 310 CMR 50.45, or if these techniques are determined to be technically infeasible pursuant to 310 CMR 50.46, the toxics user shall identify, but is not required to quantify, the costs of using the covered chemical in the user's current operations.

Changes to 310 CMR 50.53: General Application Requirements and Procedures

The changes below correct certain cross-references.

- (1) The Department may require applicants to apply for certification on a form specified by the Department.
- (2) The Department may certify an applicant as a toxics use reduction planner for no more than two years. Toxics use reduction planners seeking recertification shall apply for recertification in accordance with 310 CMR 50.58. Failure to meet recertification requirements shall constitute grounds for denial of an application.
- (3) Upon submission of an application, each applicant shall pay to the Department an application fee determined as follows:
 - (a) The fee for an applicant that applies for certification pursuant to 310 CMR 50.54 and intends to certify plans for toxics users other than his or her employer shall be \$500.
 - (b) Applicants employed by any authority, district, municipality, or political subdivision of the Commonwealth of Massachusetts whose job duties are related to toxics use reduction shall be exempt from paying the fee.
 - (c) The fee for applicants other than those set forth in 310 CMR 50.53(23)(a) or (b) shall be \$100.

Changes to 310 CMR 50.54: Exam Track Application Procedure

The changes below fix certain incorrect cross-references and add language using the newly-defined terms “limited practice planner” and “general practice planner.”

50.54: Exam-Track Application Procedure

(1) An applicant may become certified as a toxics use reduction planner if he or she meets the following requirements:

(a) no more than two years before applying for certification, he or she completes, to the satisfaction of the educational institution presenting the program, a toxics use reduction planning program; and,

(b) no more than two years before applying for certification, he or she obtains a passing score on the uniform certification examination.

(2) An applicant certified pursuant to 310 CMR 50.54, who paid the application fee required by 310 50.52~~3~~(3)(c), shall be considered a limited practice toxics use reduction planner and may certify toxics use reduction plans in accordance with 310 CMR 50.00 for facilities owned or operated by his or her employer. The word “employer,” as it is used in 310 CMR 50.54(2), shall be defined in accordance with 310 CMR 50.55(16).

(3) An applicant certified pursuant to 310 CMR 50.54, who paid the application fee required by 310 50.52~~3~~(3)(a), shall be considered a general practice toxics use reduction planner and may certify toxics use reduction plans in accordance with 310 CMR 50.00 for any toxics user or other person.

(4) An applicant certified pursuant to 310 CMR 50.54, who paid the application fee required by 310 CMR 50.52~~3~~(3)(c), may, upon payment of \$400 to the Department, certify toxics use reduction plans in accordance with 310 CMR 50.54(3).

Changes to 310 CMR 50.55: Certification through Experience in Toxics Use Reduction Activities

The changes below fix an incorrect cross-reference and add language using the newly-defined term “limited practice planner.”

50.55: Certification through Experience in Toxics Use Reduction Activities

(1) The Department may certify an applicant as a limited practice toxics use reduction planner if he or she has at least two years of full-time work experience in toxics use reduction activities. Part-time work experience in toxics use reduction activities may be pro-rated in accordance with 310 CMR 50.52(2) and (4).

(2) As used in 310 CMR 50.00, “toxics use reduction activities” include, but are not limited to, activities in which the individual uses the skills or knowledge necessary to conduct the analyses set forth in 310 CMR 50.51(2) or activities in which the individual uses the skills or knowledge necessary to evaluate whether the analyses set forth in 310 CMR 50.51(2) were conducted in accordance with 310 CMR 50.40. Successful completion of the toxics use reduction planner certification course shall also constitute a

toxics use reduction activity, and shall count for six months of the two years of work experience required pursuant to 310 CMR 50.55(1).

Changes to 310 CMR 50.58: Recertification Renewal

Note to reviewers: 310 CMR 50.58 requires that toxics use reduction planners obtain 30 continuing education credits to be recertified. The change below reduces the credits required for a second or subsequent recertification from 30 to 24 for general practice toxics use reduction planners and from 24 to 20 for limited practice planners. The changes also increase the number of credits that may be obtained through professional activities from 4 to 8.

- (2) In order to be recertified, a general practice toxics use reduction planner shall, during the time period of his or her first certification, complete at least 30 courses, seminars, or any other educational or professional programs approved by the Department, in any of the following areas: continuing education credits. For each subsequent recertification, such a planner shall complete 24 continuing education credits. In order to be recertified, a limited practice toxics use reduction planner shall, during the time period of his or her first certification, complete at least 24 continuing education credits. For each subsequent recertification, such a planner shall complete 20 continuing education credits. The Department shall grant continuing education credits for completion of courses, seminars, or other educational or professional programs in the following areas:
 - (a) toxics use reduction activities as defined in 310 CMR 50.55(2); or,
 - (b) other environmental laws or regulations, or laws or regulations pertaining to worker health or safety, except that such education may not count for more than four credits.
 - (3) Professional activities related to toxics use reduction, including but not limited to presenting or publishing papers, teaching, participation in professional or trade associations, or participation in advisory committees for government agencies, may, at the Department's discretion, count toward up to ~~four~~ eight credits of the course work required in 310 CMR 50.58
- (2).